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MEMO ENDORSED

January 16, 2008

**By Federal Express**

The Honorable Richard J. Sullivan  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St., Room 615  
New York, NY 10007

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/17/08
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**Re: *United States v. Alberto Vilar and Gary Tanaka*, 05 Cr. 621 (RJS)**

Dear Judge Sullivan:

We represent defendant Gary Tanaka in connection with the above-referenced action and, on Mr. Tanaka's behalf, respectfully submit this letter in order to clarify the nature of Mr. Tanaka's objection to the Government's request for an exclusion of time under the Speedy Trial Act until July 14, 2008.

As the Court is aware, ever since his first appearance before Judge Karas in July 2005, Mr. Tanaka has consistently asserted his statutory and constitutional speedy trial rights and objected to the Government's repeated requests for exclusions of time under the Speedy Trial Act. In a further effort to enforce his speedy trial rights, Mr. Tanaka has also consistently advocated in favor of condensed briefing schedules for pending motions, most recently objecting to the extended briefing schedule granted in connection with the taint-related motions recently decided by the Court. Finally, Mr. Tanaka has consistently urged the Court to set a trial date in this matter, among other reasons to prevent a situation where the Court's and the parties' schedules book up, thereby further delaying Defendants' trial.

Although the Court had previously rejected Mr. Tanaka's requests that a trial date be set, at the conference held on December 17, 2008, Your Honor directed the parties to confer and advise the Court as to the earliest date on which *all* parties would be available for trial. It was in response to this directive – as well as to prevent further delays down the line due to the scheduling of other matters (as has previously occurred in this action) – that Mr. Tanaka's

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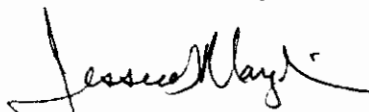
counsel submitted the December 26, 2007 letter requesting that the Court set a July 14, 2008 trial date.<sup>1</sup> In so doing, however, Mr. Tanaka did not waive his previously-asserted objections.

Furthermore, while we understand that under the Court's various rulings the earliest possible trial date appears to be July 14, 2008, we respectfully submit that this does not justify the six month exclusion requested by the Government. At the very least, the Government's request is premature. As the Government itself concedes, there is a chance that all parties could be ready for trial at least one full month before the July 14 date; indeed, each of the parties agreed to reserve June 16, 2008 as a "back-up date" pending the outcome of Mr. Fisher's January 24 court conference. We therefore respectfully request that the Court await the outcome of the January 24 conference prior to granting the Government's substantial request.

It is for these reasons that Mr. Tanaka respectfully (1) objects to the Government's request for an additional six month exclusion of time, and (2) reserves all previously-asserted objections.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

  
Jessica L. Margolis

*Request denied. The Court reserves the right to advance the trial date should the parties become available before July 14, 2008.*

cc: Marc Litt (by email)  
Ivan Fisher (by email)

  
SO ORDERED  
Date: 1/17/08 RICHARD J. SULLIVAN  
U.S.D.J.

<sup>1</sup> In the December 26 Letter, Mr. Tanaka's counsel advised that we were available for trial before July 14, 2008, and requested that the Court reserve a "back-up date" in case the other parties' schedules changed to permit an earlier trial.